

Understanding the Criminal Justice System from the Crime to Pre-trial

Melissa Atwood, LCSW
Director of Victim Services
Texas Department of Public Safety

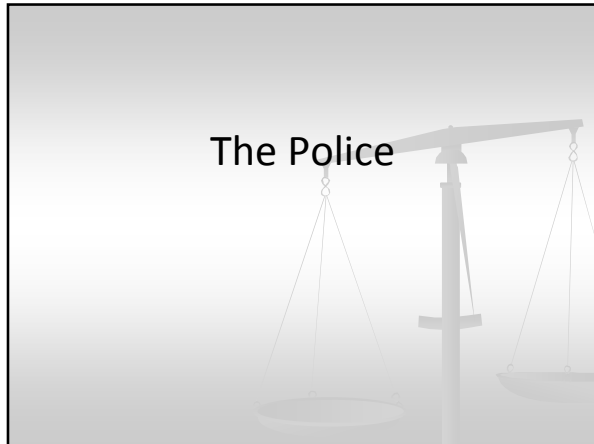
Derrellynn Perryman, LCSW
Victim Assistance Coordinator
Arlington Police Department

Learning Objectives

- a. Understand the process, including the potential for secondary victimization
- b. Be able to identify strategies for helping victims navigate these systems and counter the effects of secondary victimization.

The Criminal Justice System

- Victims
- Law Enforcement (Police, Sheriff, Constable, Marshall)
- Advocates (System and Community Based)
- Magistrate
- Jail
- Prosecutor
- Defense Attorney
- The Judge
- The Jury
- Corrections



CCP Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

- sheriffs, their deputies, and reserve deputies
- constables, deputy constables, and those reserve deputy
- marshals or police officers of an incorporated city, town, or village, and reserve municipal police officers
- rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- law enforcement agents of the Texas Alcoholic Beverage Commission;
- each member of an arson investigating unit commissioned by a city, a county, or the state;
- law enforcement officers commissioned by the Parks and Wildlife Commission;
- airport police officers
- municipal/county park and recreational patrolmen, rangers, and security officers;
- officers commissioned by the Board of certain Hospital Districts
- officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;
- investigators commissioned by the attorney general
- officers commissioned by the state fire marshal
- apprehension specialists and inspectors general commissioned by the Texas Juvenile Justice Department as officers
- officers appointed by the inspector general of the Texas Department of Criminal Justice
- the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district
- investigators commissioned by the Texas Juvenile Justice Department

Factors Affecting Police Policy Decisions

- **Organization's political culture**
- **Socioeconomic nature of the jurisdiction**
- **How the agency's government is organized**
- **Limited available resources**
- **Value judgments about which offenses will receive the most attention**

Purposes of the Police

- **law enforcement** The police function of controlling crime by intervening in situations in which the law has clearly been violated and the police need to identify and apprehend the guilty person.
- **order maintenance** The police function of preventing behavior that disturbs or threatens to disturb the public peace or that involves face-to-face conflict among two or more people. In such situations the police exercise discretion in deciding whether a law has been broken.
- **service** The police function of providing assistance to the public, usually in matters unrelated to crime.

State Police Agencies

Texas Department of Public Safety

- Highway Patrol
- Texas Rangers
- Technical support to other agencies-Legislated as an "assist agency"
 - Crime Lab
 - Investigators
 - Information Center

***State Police do not have oversight of other law enforcement

County Law Enforcement

- General law enforcement
- County jail
- Court protection
- Serves civil papers

Municipal Police

- Have majority of personnel
- Large & small departments have same functions

The LAW

Texas Criminal Law

- **Penal Code**- establish a system of prohibitions, penalties, and correctional measures to address conduct.
- **Code of Criminal Procedure**---sets rules for procedures
- **Family Code**— defines relationships, juvenile justice and CPS
- Other Codes-

Sec. 12.02. CLASSIFICATION OF OFFENSES.

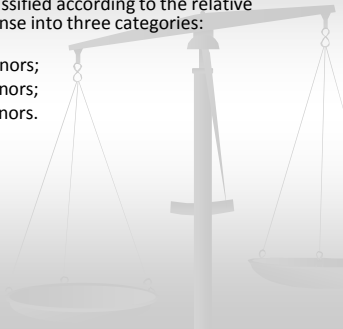
Offenses are designated as felonies or misdemeanors.



Sec. 12.03. CLASSIFICATION OF MISDEMEANORS.

(a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

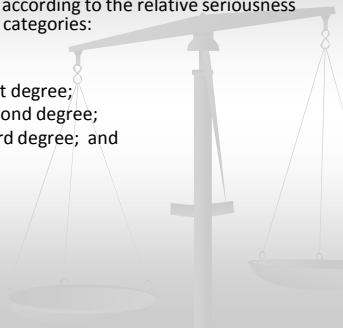
- (1) Class A misdemeanors;
- (2) Class B misdemeanors;
- (3) Class C misdemeanors.



Sec. 12.04. CLASSIFICATION OF FELONIES.

(a) Felonies are classified according to the relative seriousness of the offense into five categories:

- (1) capital felonies;
- (2) felonies of the first degree;
- (3) felonies of the second degree;
- (4) felonies of the third degree; and
- (5) state jail felonies.



SUBCHAPTER B. ORDINARY MISDEMEANOR PUNISHMENTS

- CLASS A MISDEMEANOR. (1) a fine not to exceed \$4,000; (2) confinement in jail for a term not to exceed one year; or both
- CLASS B MISDEMEANOR. (1) a fine not to exceed \$2,000; (2) confinement in jail for a term not to exceed 180 days, or both
- CLASS C MISDEMEANOR. a fine not to exceed \$500.

SUBCHAPTER C. ORDINARY FELONY PUNISHMENTS

- CAPITAL FELONY. Imprisonment in the institutional division for life without parole or by death.
- FIRST DEGREE FELONY PUNISHMENT. Imprisonment in the institutional division for life or for any term of not more than 99 years or less than 5 years. Fine not to exceed \$10,000.
- SECOND DEGREE FELONY PUNISHMENT. Imprisonment in the institutional division for any term of not more than 20 years or less than 2 years. Fine not to exceed \$10,000.
- THIRD DEGREE FELONY PUNISHMENT. Imprisonment in the institutional division for any term of not more than 10 years or less than 2 years. Fine not to exceed \$10,000.
- STATE JAIL FELONY PUNISHMENT. Confinement in a state jail for any term of not more than two years or less than 180 days. Fine not to exceed \$10,000.

The Process

Initial Response

- ▣ Communications/911
- ▣ Patrol
- ▣ Crime Scene technicians
- ▣ Victim Services
- ▣ Detectives (as necessary)

Investigations

- ▣ Specialized Units/Detectives
- ▣ Interviews (victim, witnesses, suspect)
- ▣ Jail phone calls
- ▣ Pre-text phone calls
- ▣ Search warrants
- ▣ Forensics

Case Disposition

- Unfounded
- Suspended
- Cleared by Arrest
- Exceptionally cleared
 - Prosecution declined
 - Victim chose not to participate

Case Disposition cont.

- Probable Cause Affidavit for Arrest
- Consult with Prosecutor
- Felony referred to District Attorney for Review

Arrest Process

- Booking
- Bail
- Conditions of Bond

Pretrial Release Factors

- Nature of the crime and offender
- Criminal background
- Defendant's cooperation
- Impact on the community
- Victim's opinion

Preventative Detention: The Controversy

FOR

- Based on the notion that certain offenders will commit crime while on release
- Society has the right to be protected from future criminal acts

AGAINST

- It is a form of punishment which is not based on a guilty verdict and is based on something that MIGHT happen

Grand Jury (Felony Cases)

- 12 citizen panel appointed by District Judge
- Decided if there is enough information to prosecute
- Indictment/true bill—sufficient evidence
- No bill----insufficient evidence
- May issue an arrest warrant (capias)

Pre-Trial

- Arraignment
 - Identify/Appoint Defense Counsel
 - Defense Motions
 - Change of Venue
 - Discovery of Prosecutions evidence
 - Continuation
 - Suppress evidence
- These matters are decided by a Judge

Crime Control vs. Due Process

- **Crime Control Model:** A model of the criminal justice system that assumes freedom is so important that every effort must be made to repress crime; it emphasizes efficiency, speed, finality, and the capacity to apprehend, try, convict, and dispose of a high proportion of offenders.

Crime Control vs. Due Process

- **Due Process Model:** A model of the criminal justice system that assumes freedom is so important that every effort must be made to ensure that criminal justice decisions are based on reliable information; it emphasizes the adversarial process, the rights of defendants, and formal decision-making procedures

Rights of the Accused

- Right to speedy trial by impartial jury
- Right to know the accusation
- Right to not incriminate himself
- Right to be "heard"
- Right to question witnesses
- Right to counsel
- Right to bail consideration

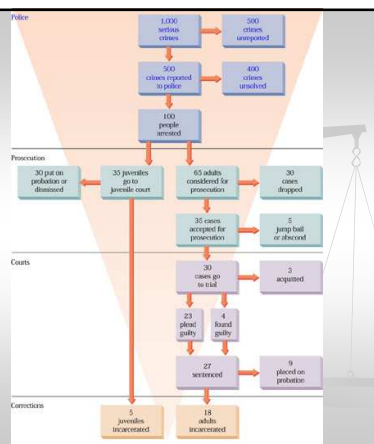
Police Responsibility to Protect

- Safety Planning
- Emergency Protective Orders
- Conditions of Bond
- Protective Orders
- Retaliation Investigations

Public Information/Privacy

- Probable Cause Affidavit
- Search Warrant
- Pseudonyms
- Open Records Request
- Working with the Media

Criminal Justice As a Filter Process



Victim Assistance

Mission

Comprehensive system of services that is victim centered, designed to help victims navigate the criminal justice process, afford victims their legal rights and make their overall participation less intimidating and burdensome.

Crime Victim Liaisons

- Chapter 56 of Code of Criminal Procedure
- Required for local law enforcement agencies
- Explanation of criminal justice system
- Prompt return of property
- Crime Victim Compensation
- Crime Victim Rights
- Written information (Brochure)

Community Based Victim Services

- Sexual Assault Centers
- Domestic Violence Programs
- Child Advocacy Centers
- Other non-governmental programs

Victim Services On-Scene/Hospital

- Provide justice support
- Provide crisis counseling
- Assess for immediate needs
- Provide information on process and trauma
- Transport and/or accompany to the hospital for the SANE exam.
- Conduct safety planning
- Support victim's decisions

Victim Services Investigative Support

- Counseling and support throughout the investigation
- Provide case updates
- Develop follow-up service plan
- Coordinate with other service providers
- Provide Advocacy
- Assist with Crime Victim Compensation

Victim Services (cont.)

Assist the victim in making informed decisions:

- What level the victim chooses to participate
- Victim's ability to provide information
- Who does the victim want present
- Does he/she want to undergo a SANE exam

Multi-Disciplinary Teams (MDS)

- Law enforcement
- Advocacy (Systems and Community Based)
- Prosecutors
- Medical
- Child Protection
- Mental Health
- Forensics
- Crime Analysis
- University
- Child Advocacy Center

MDS GOALS

- Increase victim access to services
- Increase reporting to law enforcement
- Better inform and support victims
- Decrease secondary trauma for victims
- Improve law enforcement investigation
- Improve prosecution
- Maximize community resources

Barriers to Victim Participation

- Confusion/incomplete memory due to trauma
- Shame that she/he caused or contributed to the victimization.
- Lack of memory or self-blame due to alcohol or drug use at the time of the crime

Barriers (cont.)

- Lack of trust in government or systems that are not always supportive
- Threats and/or intimidation by perpetrator
- Fear in reporting due to immigration status
- Fear of not being believed
- Feeling overwhelmed in general
- Physical, cognitive and emotional disabilities

Enhancing Victim Participation

- Training for first responders
- Proactive victim assistance outreach
- Address emotional and safety concerns
- Ensure informed decision making
